

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION**

**CHERLY D. MARTIN**

**PLAINTIFF**

**VS.**

**CIVIL ACTION NO.: 1:10CV126-DAS**

**MICHAEL J. ASTRUE,  
COMMISSIONER OF SOCIAL  
SECURITY ADMINISTRATION**

**DEFENDANT**

**FINAL JUDGMENT**

This cause is before the court on the Plaintiff's complaint for judicial review of an unfavorable final decision of the Commissioner of the Social Security Administration denying her claim for a Period of Disability, Disability Insurance Benefits, and Supplemental Security Income benefits. The parties have consented to entry of final judgment by the United States Magistrate Judge under the provisions of 28 U.S.C. § 636(c), with any appeal to the Court of Appeals for the Fifth Circuit. The court, having reviewed the administrative record, the briefs of the parties, and the applicable law and having heard oral argument, finds as follows, to-wit:

Consistent with the court's oral ruling following the parties' oral argument, the decision of the Commissioner of Social Security is not supported by substantial evidence because the ALJ did not comply with SSR 00-4p. Specifically, though the ALJ's RFC determination indicated that the claimant could not perform any jobs that require reading fine print or that are production paced, the ALJ relied upon the VE's testimony that the claimant could perform jobs with these requirements pursuant to the DOT, i.e., "interviewer" and "grader, sorter," respectively.

Accordingly, on remand the Commissioner shall return the case to the ALJ, who shall give

further consideration to whether there are a significant number of jobs in the national economy that the claimant can perform. The ALJ shall conduct any proceedings (not inconsistent with this order) necessary to resolve the apparent conflicts between the VE's testimony and the DOT. However, the court's ruling should in no way be interpreted as an advisory opinion in favor of a finding of disability.

**IT IS, THEREFORE, ORDERED AND ADJUDGED** that this case is **REVERSED** and **REMANDED** for further proceedings.

This, the 11<sup>th</sup> day so February, 2011.

/s/ David A. Sanders  
U. S. MAGISTRATE JUDGE